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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,385	09/26/2003	Joseph C. Dille	10781.0039.NPUS01	2384
26720	7590	01/26/2006	EXAMINER	
LOCKE LIDDELL & SAPP LLP			KRISHNAMURTHY, RAMESH	
ATTN. DOCKETING			ART UNIT	PAPER NUMBER
600 TRAVIS #3400				3753
HOUSTON, TX 77002			DATE MAILED: 01/26/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/605,385	DILLE, JOSEPH C.	
Examiner	Art Unit		
Ramesh Krishnamurthy	3753		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 31 October 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 - 31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1 - 19 and 23 - 28 is/are allowed.
- 6) Claim(s) 20 - 22 and 29 - 31 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/31/05</u> . | 6) <input type="checkbox"/> Other: _____ . |

This office action is responsive to amendment filed 10/31/05.

Claims 1 – 31 are pending.

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 20 – 22 and 29 - 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown et al. (US 4,895,341).

Brown et al. discloses (Fig. 15, for example) a control valve (A), comprising:

An elastomeric flow tube (C); a plunger (96) having first and second ends; a pinch member (98) connected to the first end of the plunger, the pinch member situated adjacent the flow tube; a reference surface (170) positioned generally opposite the pinch member such that the elastomeric tube is squeezable between the pinch member and the reference surface to control fluid flow through the tube; and means (88,254) situated at the first and second ends of the plunger for guiding the plunger. It is noted that means (B) is provided for containing the pressure of the flow tube (C). The cavity in which the springs (104, 268) are disposed provides means for damping any oscillations of the plunger. Brown discloses a plurality of rings (54) (See Fig. 1, the embodiment in Fig. 15 also has element (54) but it is not labeled) that are disposed on either side of the plunger (96).

3. Claims 1 – 19 and 23 – 28 are allowed.

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4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Response to Arguments

Applicant's arguments filed 10/31/05 with respect to claims 20 - 22 have been fully considered but they are not persuasive. Applicant's argument is that the office action failed to identify structure provided in the specification corresponding to the recited functions, or equivalents. In response it is noted that the office action does identify means (88,254) as the means situated at the ends of the plunger (96) for guiding the plunger, thus establishing the equivalence. In the instant specification, in the last line of paragraph [0050], it is stated "The guide springs keep the plunger 124 in the center of the valve stem 544". And again in paragraph [0053] it is reiterated that guide springs function to ensure that the motion of the plunger is along the axis of the valve stem. Thus the function of the springs is to guide the plunger along its axis. MPEP 2183 clearly states that if the prior art element performs the identical function specified in the claim in substantially the same way, and produces substantially the same results as the corresponding element disclosed in the specification, it is an equivalent. In Brown, elements (254) and (88) serve to guide the plunger along the axis of the plunger.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh Krishnamurthy whose telephone number is (571) 272 – 4914. The examiner can normally be reached on Monday - Friday from 10:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Keasel, can be reached on (571) 272 – 4929. The fax phone number for the organization where this application or proceeding is assigned is (571) 273 – 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ramesh Krishnamurthy, Ph.D., PE
Primary Examiner
Art Unit 3753